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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/855,600

05/16/2001

Dan Dan Yang

9354

41018

7590

12/03/2004

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EXAMINER

BELLO, AGUSTIN

ART UNIT

PAPER NUMBER

2633

DATE MAILED: 12/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/855,600

Applicant(s)

YANG, DAN DAN

Examiner

Agustin Bello

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 August 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 and 14-18 is/are pending in the application.
- 4a) Of the above claim(s) 4-8, 16 and 17 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 9-12, 14, 15 and 18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

1. Claims 4-8 and 16-17 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected Species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 8/12/04.

Specification

2. The amendment filed 8/12/04 is objected to under 35 U.S.C. 132 because it introduces new matter into the disclosure. 35 U.S.C. 132 states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: storage 245 and optical network terminal 295.

Applicant is required to cancel the new matter in the reply to this Office Action.

Drawings

3. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, a connection to the storage means, a detecting means for detecting the optical actual wavelength, and a specific representation of a comparison means must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement

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sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 9-11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The language for claim 9 is not clear as to how the reference signal is detected, how the observed signal is detected, and how the two are compared. Furthermore, the claim language is not clear as to the origin of the reference wavelength. Is the reference wavelength stored at the node or is it detected at the node? The claim language is generally vague and should be amended to reflect the desired subject matter. The examiner shouldn't have to guess from the Figures or the specification what is happening at the node.

Allowable Subject Matter

6. The indicated allowability of claims 9-11, 16, and the objections to claims 13 and 19 are withdrawn in view of the previously cited reference(s) to Salomaa. Rejections based on the previously cited reference(s) follow.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8. Claims 1-3, and 9-12, are rejected under 35 U.S.C. 102(e) as being anticipated by Salomaa (U.S. Patent Application Publication No. 2002/0030868).

Salomaa discloses a method of determining signal quality of at least one optical signal transmitted to a node (31) in an optical network using an optical carrier, the method comprising:

a) gathering data related to signal quality for the at least one optical signal (Fig. 3)., b) processing the data to determine signal quality parameters of the at least one optical signal (Fig. 3, line 1 3 of page 3)', c) retrieving signal quality references from a location logically remote from the node (paragraphs 001 4, 001 5, 00 1 6, pages 1 and 2), d) comparing the signal quality parameters with a signal quality references (Fig. 5). The step a) comprises: a1) receiving the optical carrier and said at least one optical signal at the node (paragraph 2005)*, a2) scanning a specific wavelength band of the optical carrier for signal characteristics of the at least one optical signal (line 13 of page 3), the wavelength band being substantially centered around a wavelength used by the at least one optical signal (see Fig. 4 and paragraph 0033).

The step a2) is accomplished using a tunable optical filter (32, Fig. 5).

The signal quality references are retrieved from an optical network terminal (paragraphs 0035 and 0036). The wavelength used by said at least one optical signal is determined according to a predetermined standard (see claims 3 and 4).

Salomaa further discloses wavelength band of "only individual wavelengths" (line 13 of page 3) being scanned, and Fig. 4 and paragraph 0033 disclose both upper sideband and lower sideband of the carrier signal being passed through the filter', therefore, the reference meets the limitation "scanning a specific wavelength band of said optical carrier for signal characteristics of a specific optical signal, said wavelength band being substantially centered around a wavelength used by a specific optical signal" recited in claim 12.

Salomaa further discloses an optical detector (33) receiving a filtered optical signal from the tunable optical filter (32), an internal controller (35, Fig. 5) coupled to and controlling the filter and the detector, the controller receiving an output of said detector for processing', wherein the controller determines signal characteristics of a specific optical signal based on the output of said detector, the specific optical signal being one of the plurality of optical signals.

Salomaa further discloses as recited in amended claim 12, optical signal processing (e.g. signal processed via filter 32, detector 33, and control electronics 35).

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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10. Claims 14, 15, and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Salomaa.

Salomaa differs from the claimed invention in that Salomaa fails to specifically teach the network being used in a computer network. However, it is well known in the art to utilize optical network for improving computer network speed and data handling capacities since optical signal transmitting medium enable high speed, high capacity communication between numerous computer network components. Therefore, it would have been obvious to use optical network of Salomaa in a computer network for improving computer network speed and data handling capacities. Other features in the preamble of claim 14 such as "Computer readable media containing computer readable and executable code" are typical features of a computer network, therefore, these features does not distinguish over the reference.

Regarding claim 18, the cited reference teaches the elements as discussed regarding claims 1-3 and 12 above, but differs from the claimed invention in that it fails to specifically teach that the filter receives said optical carrier through a network optical switch, said switch being coupled to at least one optical tap on an input or an output line of said node such that said component can be coupled to any input or output line of said node. One skilled in the art would have been motivated to include an optical switch in the design of Salomaa in order to have the ability to select from the plurality of node outputs available. Therefore, it would have been obvious to one skilled in the art at the time the invention was made to include an optical switch in the design of Salomaa.

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Conclusion

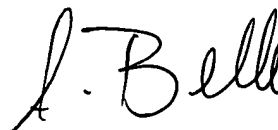
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Agustin Bello whose telephone number is (571) 272-3026. The examiner can normally be reached on M-F 8:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jason Chan can be reached on (571)272-3022. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Agustin Bello
Examiner
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AB

A handwritten signature in black ink, appearing to read 'A. Bello', is positioned below the printed name and title.